

OCT 14 2004

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	09/807,949
Filing Date	August 9, 2001
First Named Inventor	Jan Zavada
Art Unit	1642
Examiner Name	Christopher H. Yaen
Attorney Docket Number	D-0021.5C-1

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114**

Note: If the RCE is proper, any previously filed unentered and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. **Fees**

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 12-0615
- i. ☐ RCE fee required under 37 CFR 1.17(e) || 10/15/2004 MAHMED1 00000055 120615 09807949
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17) || 02 FC:1801 20.00 DA 770.00 OP
- iii. ☐ Other _____
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☒ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print / Type) Leona L. Lauder

Registration No. (Attorney / Agent) 30,863

Signature

Date October 11, 2004

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print / Type) Denise Ortega

Signature

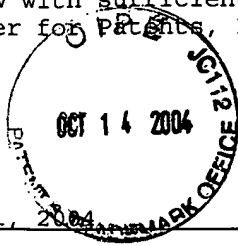
Date October 11, 2004

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Certificate of Mailing [37 CFR 1.8(a)]

I hereby certify that this paper and the documents referred to as attached therein are being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Denise Ortega
Name

October 11, 2004
Date

Denise Ortega
Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jan Zavada et al.

Serial No.: 09/807,949

Group Art Unit: 1642

Filed : August 9, 2001

Examiner: Christopher H. Yaen

For : MN Gene and Protein

AMENDMENT TRANSMITTAL AND
PETITION AND FEE FOR EXTENSION OF TIME
UNDER 37 CFR 1.136(a)

MAIL STOP RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is a Request for Continued Examination (RCE) in response to the Advisory Action mailed from the U.S. Patent and Trademark Office on September 9, 2004 with a period for reply set to expire on October 9, 2004. Applicants petition for an extension of time for a total period of one month to respond to that Advisory Action which concerns the above-

identified application. A response in connection with the matter for which this extension is requested is filed herewith.

A request for payment by credit card of the fee for a one-month extension of time under 37 CFR 1.17(a)(1) accompanies this transmittal.

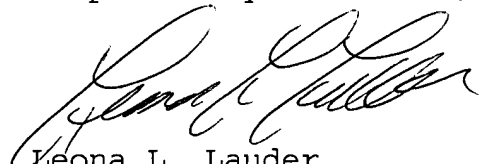
No additional fee should be required for the accompanying response. The fee for claims has been calculated as shown below:

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEE
TOTAL	12	MINUS	22	= 0	X \$ 18	\$ 0.00
INDEP.	1	MINUS	4	= 0	X \$ 86	\$ 0.00

[] FIRST PRESENTATION OF MULTIPLE DEP. CLAIM + \$290 \$
TOTAL \$ 0.00

If for any reason, the credit card payment is not adequate for payment of any fees or should any additional fees be determined to be necessary in connection with this paper, Applicants respectfully request that any such fees be charged to Deposit Account No. 12-0615.

Respectfully submitted,



Leona L. Lauder
Attorney for Applicants
Registration No. 30,863

Dated: October 11, 2004



Certificate of Mailing [37 CFR 1.8(a)]

I hereby certify that this paper and the documents referred to as attached therein are being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Denise Ortega
Name

October 11, 2004
Date:

Denise Ortega
Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jan Zavada et al. Group Art Unit: 1642
Serial No.: 09/807,949 Examiner: C.H. Yaen
Filed : August 9, 2001
For : MN Gene and Protein

AMENDMENT AND REQUEST FOR
CONTINUED EXAMINATION (RCE)

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Amendment concerning the above-identified application is in response to the Advisory Action mailed from the U.S. Patent and Trademark Office (PTO) on September 9, 2004. Applicants respectfully request that the amendments in this response, which were previously submitted in their Amendment

after Final submitted to the PTO on July 19, 2004 but not entered, now be entered in accordance with 37 CFR § 1.114 and with the Manual of Patent Examining Procedure (MPEP) § 706.07(h).

The instant application was filed on August 9, 2001, and is the U.S. national stage application corresponding to PCT Application No. PCT/US99/24879 filed October 22, 1999. Therefore, as the instant application is an international utility application that was filed under 35 U.S.C. 363 after June 8, 1995, and as the last Office action was a Final Office Action closing the prosecution in the application, Applicants respectfully point out that they are entitled under 37 CFR §§ 1.114 (a) and (d) to have a first submission entered and considered on the merits after final rejection:

If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

- (a) Payment of the issue fee, unless a petition under § 1.313 is granted;
- (b) Abandonment of the application; or
- (c) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated. . . .

If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any

Office action and the submission will be entered and considered.

Applicants have enclosed herewith a submission and an authorization to charge the fee of \$770 as set forth in 37 CFR § 1.17(e), and note that the finality of the Office Action, mailed from the PTO on May 17, 2004 (hereinafter cited as "Office Action") is thereby automatically withdrawn. Also enclosed is an authorization to charge the fee for a one-month extension of time under 37 CFR § 1.17(a)(1).¹ Should any additional fees be determined to be necessary in connection with this paper, Applicants respectfully request that any such additional fees be charged to Deposit Account No. 12-0615.

1. Only a one-month extension fee is due because the Applicants filed their response to the final office action for the instant application within **TWO MONTHS** of the mailing date of the final office action, and the advisory office action was not mailed until after the end of the **THREE MONTH** shortened statutory period. The shortened statutory period then expired on the date the advisory action was mailed, that is, on September 9, 2004, and the extension fee pursuant to 37 CFR 1.136(a) is calculated from the mailing date of the advisory action. The instant RCE is being submitted to the PTO within one-month of the advisory action.